IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

WRIT PETITION NO. 2063 OF 2002

Janhit Manch and others .. Petitioners
v/s.
The State of Maharashtra and others .. Respondents

Mr.Bhagvanji Raiyani-petitioner in person.

Mr. K.K. Singhvi, senior counsel with Ms. P.A. Purandare for the respondent No.2.

Mr. Sumeet Moholikar i/by Ms. Jaya Nair for applicant in Chamber summons No.179 of 2006.

CORAM : R.M.LODHA &
S.A.BOBDE, JJ.

DATED : 24TH AUGUST, 2006.

P.C.

We perused the affidavit of Mr. Vijaykumar Nagorao Kalam, Deputy Municipal Commissioner (Special) handed in today by Mr. K.K. Singhvi, senior counsel for the Corporation. From the said affidavit, it transpires that 13 structures are pending demolition but the demolition could not be done for want of availability of police assistance. It is stated that the Commissioner of Police vide letter dated 20th August, 2006 has informed the Municipal Commissioner that due to ensuing Ganpati festival, police force is required for law and order and after Ganpati festival is over, the adequate police force shall be made available.

2. In the circumstances, we direct the Corporation to demolish remaining 13 unauthorised structures before 30th September, 2006.

3. The application made by Sri Ayyappa Seva Sabha regarding Ayyappa Temple at Shivaji Nagar, Govandi Road, we order that if by 29th September, 2006, the applicant Sri Ayyappa Seva Sabha does not remove the unauthorised structure, the Corporation shall demolish the same immediately thereafter.

4. The grievance raised by the petitioner that immediately after demolition of the unauthorised shrines and temples, the said shrines and temples resurface unauthorisedly in no time. Mr. K.K. Singhvi, the senior counsel for the Corporation submits that the Assistant Engineer (Maintenance) in the concerned ward ordinarily keeps watch about the unauthorised construction in the area and henceforth special attention shall be given by the Assistant Engineer (Maintenance) of the concerned ward in respect of the unauthorised shrines and temples and no sooner such unauthorised shrines and temples are detected or brought to the notice, such unauthorised shrines and temples shall be demolished as soon as possible without giving any notice.

5. As it is, in the order dated 20th November, 2003, this court has directed that structures which are already demolished pursuant to the orders of this court and, if, re-erected at the same site, the Corporation shall demolish the same without notice and if

necessary, with the help of police. Obviously, this order shall be applicable to all unauthorised shrines and temples which have been demolished by the Corporation pursuant to the orders of this court and, if any re-erection takes place at the same place, the Corporation shall be entitled to demolish the same without notice. The concerned police authorities shall also provide help in that event to the Corporation.

6. With regard to the illegal shrines on the roads belonging to MHADA, State Government, MMRDA, MBPT and other authorities, we are informed by Mr.Singhvi that all these authorities are competent to take action against the offending structures on the lands belonging to them. Mr.Singhvi submits that in so far as Corporation is concerned, it will provide necessary manpower and machinery if sought for by these authorities. We, accordingly, direct that in respect of unauthorised and illegal shrines on the lands of MHADA, State Government, MMRDA, MBPT etc., all these authorities are free to take action in removal of such illegal shrines in accord with law. If any assistance is required by way of manpower and machinery by these authorities from the Corporation, we direct the Municipal Corporation of Greater Mumbai to provide such manpower and machinery.

7. With the aforesaid directions, in addition to and continuation of earlier directions issued from time to time, the writ petition stands disposed of.

(R.M.LODHA, J.)

(S.A.BOBDE, J.)